

Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

Case No. CR16-007RSM

V.

## LONNIE LILLARD.

Defendant.

## **ORDER DENYING MOTION TO RECUSE**

THIS MATTER comes before the Court on pro se Defendant's Motion to Recuse District Court Judge Ricardo Martinez from Further Proceedings. Dkt. #354.

Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any proceeding in which his impartiality “might reasonably be questioned.” Federal judges also shall disqualify themselves in circumstances where they have a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C. § 455(b)(1).

Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, a recusal of a federal judge is appropriate if “a reasonable person with knowledge of all the facts would conclude that

1 the judge's impartiality might reasonably be questioned." *Yagman v. Republic Insurance*,  
2 987 F.2d 622, 626 (9<sup>th</sup> Cir.1993). This is an objective inquiry concerned with whether  
3 there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*,  
4 923 F.2d 731, 734 (9<sup>th</sup> Cir.1992); *United States v. Conforte*, 624 F.2d 869, 881 (9<sup>th</sup>  
5 Cir.1980). In *Liteky v. United States*, 510 U.S. 540 (1994), the United States Supreme  
6 Court further explained the narrow basis for recusal:  
7

8 [J]udicial rulings alone almost never constitute a valid basis for a bias or  
9 partiality motion. . . .[O]pinions formed by the judge on the basis of facts  
10 introduced or events occurring in the course of the current proceedings, or of  
11 prior proceedings, do not constitute a basis for a bias or partiality motion  
unless they display a deep seated favoritism or antagonism that would make  
fair judgment impossible. Thus, judicial remarks during the course of a trial  
that are critical or disapproving of, or even hostile to, counsel, the parties, or  
their cases, ordinarily do not support a bias or partiality challenge.

12 *Id.* At 555.

13 In the instant motion, Defendant fails to allege sufficient actions and/or behavior  
14 by the Court demonstrating bias towards him. As noted above, negative rulings by the  
15 Court almost never constitute a basis for bias, nor do opinions formed by the judge on the  
16 basis of events occurring in the course of proceedings.  
17

18 Accordingly, the Court hereby finds and ORDERS:

- 19 1. Defendant's Motion to Recuse (Dkt. #354) is DENIED.
- 20 2. In accordance with LCR 3(e), that this Order is referred to the Honorable  
21 Benjamin H. Settle, the senior active judge in this District, for review of this  
22 decision.

3. The Clerk is directed to provide a copy of this Order to U.S. District Judge Benjamin H. Settle.

DATED this 1<sup>st</sup> day of November, 2019.

  
RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT JUDGE